

CALIFORNIA DEPARTMENT OF JUSTICE

TEXT OF PROPOSED REGULATIONS

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 20. CALIFORNIA PAWN AND SECONDHANDDEALER SYSTEM (CAPSS)

Note: The proposed CAPSS Regulations were originally noticed on September 21, 2018, and are shown in single underline format. Following the 45-day comment period, the Department of Justice (DOJ) considered amendments proposed at its November 9, 2018 public hearing. Comments received prior to, and during, the public hearing, as well as further staff analysis, are reflected in these proposed modifications to the CAPSS Regulations. As part of the public process for this formal rulemaking, staff is providing this proposal containing the proposed amendments. Proposed 15-day changes are shown in double underline and double strikethrough format. “****” indicates that sections of the originally-noticed proposed regulations not printed here are not changed.

Chapter 20. California Pawn and SecondhandDealer System (CAPSS)

Article 1. Chapter Definitions

§2000. Chapter Definitions.

(a) “Article field descriptor,” as used in this chapter and Business and Professions Code section 21628, subdivision (a), paragraph (3), subparagraph (B), means the preset descriptive categories denoting tangible personal property developed by the Department.

~~(b) “Business day,” as used in this chapter and Business and Professions Code, division 8, chapter 9, article 4, commencing at section 21625, means Monday through Friday, excluding official California state holidays.~~

~~(b)~~ “(b) “Department” means the California Department of Justice.

~~(d)~~ “(c) “Electronic signature” means an image file of a signature that is uploaded or electronically attached to the Property Transaction Report.

~~(d)~~ “(d) “Identification number” means the identification, serial, or other identifying number on the face of the identification presented by the intended seller or pledger.

~~(e)~~ “(e) “Licensing authority,” as used in this chapter, Business and Professions Code, division 8, chapter 9, article 4, commencing at section 21625, and Financial Code, division 8, chapter 3, commencing at section 21300, means the police department or sheriff’s office issuing the pawnbroker or secondhand dealer license.

~~(e)~~(f) “Model” means model name or number of the tangible personal property.

~~(h)~~(g) “Owner-applied number,” as used in this chapter and Business and Professions Code section 21628, subdivision (a), means a number permanently affixed by the owner on the tangible personal property.

~~(i)~~(h) “Person taking the information,” as that term is used in this chapter and Business and Professions Code section 21628, subdivision (a), means the store representative taking and verifying the intended seller or pledger’s information and obtaining the property description information.

~~(j)~~(i) “Plain text description,” as used in this chapter and Business and Professions Code section 21628, subdivision (a), paragraph (3), subparagraph (A), means a property description generally accepted by the pawn and secondhand industry that conveys to a reasonable person the clear nature of the property. The “plain text description” entry shall not make reference to the “plain text descriptor.”

~~(k)~~(j) “Plain text descriptor,” as used in this chapter, Business and Professions Code section 21628, subdivision (a), paragraph (3), subparagraph (B), and Business and Professions Code section 21628, subdivision (d), paragraph (1), means a concise, non-abbreviated, key word(s) property description generally accepted by the secondhand industry that conveys to a reasonable person the clear nature of the property. The “plain text descriptor” entry shall not make reference to the “plain text description.”

~~(l)~~(k) “Intended Seller or Pledger Address,” as used in this chapter and Business and Professions Code section 21628, subdivision (a), paragraph (1), means the dwelling the intended seller or pledger considers his or her established or principal home and to which, if absent, he or she intends to return. It can be real or personal property, fixed or mobile, and located on land or water.

~~(m)~~(l) “Transaction Date,” means the calendar date the tangible personal property is received by a licensed pawnbroker or secondhand dealer.

~~(n)~~(m) “Transaction Time,” means the Pacific Time Zone time the tangible personal property is received by a licensed pawnbroker or secondhand dealer.

~~(o)~~(n) “Transaction Type,” means pawn, buy, trade, consign, or auction.

~~(p)~~(o) “United States” means the 50 States, the District of Columbia, and any territory or possession of the United States.

~~(q)~~ “Working day” as that term is used in this chapter and Business and Professions Code, division 8, chapter 9, article 4, commencing at section 21625, means Monday through Friday, excluding official California state holidays.

Note: Authority cited: Section 21628, 21628.2, 21630, 21636, 21647, 21641, and 21642, Business and Professions Code; Section 21300, 21301, and 21303, Financial Code.

Reference: Section 21625, 21628, 21628.2, 21630, 21636, 21647, 21641, and 21642, Business and Professions Code; Section 21300, 21301, and 21303, Financial Code.

Article 2. License Fees

§2002. License Renewal Fee.

- (a) The license renewal fee for a licensed pawnbroker or a secondhand dealer is \$300.00.
- (b) The license renewal fee shall be paid by check or money order payable to California Department of Justice and submitted to the licensing authority.
- (c) The license term is two years from the date of issue. If not renewed, the license is expired the calendar day following the end of the license term.
- (d) License renewal fees must be received by the Department prior to the end of the license term. Thereafter, license renewal fees are delinquent.
- (e) ~~CAPSS access is denied whenever license renewal fees are delinquent~~ Access to CAPSS shall be denied whenever license renewal fees are delinquent for 60 calendar days beyond the expiration date of the license.

Note: Authority cited: Section 21641, 21642, and 21642.5, Business and Professions Code; Section 21300, and 21301, Financial Code.

Reference: Section 21641, 21642, and 21642.5, Business and Professions Code; Section 21300, and 21301, Financial Code.

Article 3. Pawn and Buy Transaction Reporting

§2006. Property Transaction Report.

- (a) The report of the receipt or purchase of secondhand tangible personal property required by Business and Professions Code sections 21628 is the "Property Transaction Report."
- (b) The secondhand dealer or pawnbroker shall electronically submit Property Transaction Reports to CAPSS by one of the following processes:
 - (1) The Department's CAPSS web-based report.
 - (2) The Department's CAPSS web-based bulk upload.
 - (3) The Department's CAPSS application program interface (API) protocol.
- (c) The Property Transaction Report shall include the following information:
 - (1) Intended seller or pledger information:
 - (A) First name.
 - (B) Last name.

(C) Date of birth.

(D) Address.

(1) If the intended seller or pledger's address is in the United States then the street address shall be entered in the "address" field.

(2) If the intended seller or pledger's address is outside of the United States then the entire non-United States address shall be entered in the "address" field.

(3) If the intended seller or pledger has no address then "None" shall be entered in the "address" field.

(4) Only one address shall be provided.

(E) City.

(1) If the intended seller or pledger's address is outside of the United States then no entry shall be made in the "city" field.

(F) US state or territory.

(1) If the intended seller or pledger's address is outside of the United States then no entry shall be made in the "US state or territory" field.

(G) Postal code.

(1) If the intended seller or pledger's address is outside of the United States then no entry shall be made in the "postal code" field.

(H) Gender.

(I) Hair color.

(J) Eye color.

(K) Height (ft. and in.).

(L) Weight (lbs.).

(2) Identification document information:

(A) Identification type.

(B) Issuing state or territory.

(C) Issuing country.

(D) Identification number.

(E) Identification date of issue or identification expiration year.

(3) Store information:

(A) Store name.

(B) Secondhand dealer or pawnbroker license number.

(C) Licensing authority.

(D) Address.

(E) City.

(F) State.

(G) Postal code.

(H) Store phone number.

(I) Store representative.

(4) Transaction item(s) information:

(A) Transaction date.

(B) Transaction time.

(C) Transaction type.

(D) Article field.

(1) The "article field" shall consist of either an article field descriptor or a plain text descriptor.

(E) Plain text description.

(F) Brand name.

(1) If the brand name of the tangible personal property is not reasonably ascertainable then “Unknown” shall be entered in the “brand name” field.

(2) If the tangible personal property has no brand name then “None” shall be entered in the “brand name” field.

(G) Model.

(1) If the model name or number of the tangible personal property is not reasonably ascertainable then “Unknown” shall be entered in the “model” field.

(2) If the tangible personal property has no model name or number then “None” shall be entered into the “model” field.

(H) Color.

(I) Material.

(1) If the material of the tangible personal property is not reasonably ascertainable then “Unknown” shall be entered in the “material” field.

(J) Size.

(1) If the size of the tangible personal property is not reasonably ascertainable then “Unknown” shall be entered in the “size” field.

(K) Serial number.

(1) If the serial number of the tangible personal property is not reasonably ascertainable then “Unknown” shall be entered in the “serial number” field.

(2) If the tangible personal property has no serial number then “None” shall be entered in the “serial number” field.

(L) Owner-applied number.

(1) If the owner-applied number of the tangible personal property is not reasonably ascertainable then “Unknown” shall be entered in the “owner-applied number” field.

(2) If the tangible personal property has no owner-applied number then “None” shall be entered in the “owner-applied number” field.

(M) Personalized inscription.

(1) If the personalized inscription of the tangible personal property is not reasonably ascertainable then “Unknown” shall be entered in the “inscription” field.

(2) If the tangible personal property has no personalized inscription then “None” shall be entered in the “inscription” field.

(N) Manufacturer’s pattern name.

(1) If the manufacturer’s pattern name of the tangible personal property is not reasonably ascertainable then “Unknown” shall be entered in the “manufacturer’s pattern name” field.

(2) If the tangible personal property has no manufacturer’s pattern name then “None” shall be entered in the “manufacturer’s pattern name” field.

(5) Electronic signature and fingerprint information:

(A) Seller or pledger electronic signature.

(B) Seller or pledger fingerprint.

(C) Seller or pledger has no fingers indicator.

(d) Submission of the Property Transaction Report by the pawnbroker or secondhand dealer affirms that the person taking the information has verified the identification of the intended seller or pledger.

(e) The person taking the information shall ~~advise~~ notify the intended seller or pledger that the use of the intended seller or pledger's electronic signature and fingerprint on the Property Transaction Report constitutes certification by the intended seller or pledger that:

(1) He or she is the owner or has the authority of the owner to sell or pledge the property; and,

(2) To his or her knowledge and belief the information he or she provided is true and complete.

Note: Authority cited: Section 21628, Business and Professions Code.

Reference: Section 21628, Business and Professions Code.